



REMARKS AT THE LAUNCH OF THE MODEL GUIDELINES FOR SEXUAL OFFENCE CASES

The Honourable Mme Justice Maureen Rajnauth-
Lee, Judge of the Caribbean Court of Justice

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The Judicial Reform and Institutional Strengthening (JURIST) Project is a multi-year (2014-2023) regional Caribbean judicial reform initiative funded under an arrangement with the Government of Canada. The Project is being implemented on behalf of Global Affairs Canada (GAC) and the Conference of Heads of Judiciary of CARICOM (the Conference), by the Caribbean Court of Justice (CCJ), which was appointed by the Conference as its Regional Executing Agency (REA). The JURIST Project commenced activities on April 1, 2014 after the signing of a Contribution Arrangement between the CCJ and GAC.

A key component of the JURIST Project was the Sexual Offences Project. The two key initiatives of the Sexual Offences Project were (1) the development of Model Guidelines for Sexual Offences Cases. The JURIST Project formally launched the Model Guidelines for Sexual Offence Cases in the Caribbean Region at CAJO's Biennial Conference in Curacao on 28 September 2017. And (2) the establishment

Remarks

By

The Honourable Mme Justice Maureen Rajnauth-Lee, Judge of the Caribbean Court of Justice and Chair of the Sexual Offences Advisory Committee
on the occasion of the
Formal Launch of the Model Guidelines for Sexual Offence Cases in the Caribbean Region
at CAJO's Biennial Conference in Curacao
28 September 2017

General Background

Even though the Caribbean region has made progress in advancing issues which relate to gender-based violence, the region continues to be plagued by high levels of sexual violence, along with other forms of gender-based violence. Notably, the region continues to experience high levels of under-reporting of sexual offences and the ineffective handling of those cases.

Progress Made in Justice System's Handling of Sexual Assault Cases

We note that there have been improvements in the justice system's response to sexual assaults. For example, the law in quite a few jurisdictions now places strict limits on the ability of defence attorneys to use the sexual history of complainants to attack their credibility. Judges are no longer required to warn juries that they should not rely on the uncorroborated evidence of complainants. It has been said that this warning arose out of sexist notions regarding the propensity of women and girls to lie about sexual intercourse. In addition, most, if not all, CARICOM countries have in-camera hearings for sexual assault cases.

Current Problems in the Justice System's Handling of Sexual Offences

Nonetheless, a 2016 Baseline Study, commissioned by the JURIST Project and undertaken by UN Women, found that the justice system's management of sexual offences and its treatment of complainants and witnesses remains uneven; uncoordinated (as it relates to the relationships among justice sector actors who work along the justice chain); and continues to lead to the re-victimisation of survivors of sexual offences. The results of the Baseline Study included:

- Court officials, including judicial officers, as well as other justice sector actors, such as the police and medical practitioners, are often insensitive to the trauma that survivors, including children, experience when they must relive the painful events of a sexual violation.

- They, therefore, fail to make adequate provisions for the care and support of complainants/survivors in sexual assault cases.
- Moreover, inordinate delays in the justice system result in the survivors of sexual violence having to relive this trauma over a number of years. For example, a girl or boy who was sexually assaulted at, say, age twelve might not have their case ready for trial until they are adults.

These are just some of the reasons for the high attrition rates in the justice chain for sexual offences and the low conviction rates for sexual offence cases in some jurisdictions.

How Will the Guidelines Address these Problems

The Model Guidelines for Sexual Offence Cases are intended to address these problems by:

- Providing internationally accepted best practices for the management of sexual offence cases; and
- Offering a rights-based approach to the treatment of complainants and vulnerable witnesses, including children, involved in sexual assault cases.

Stakeholders Who Should Be Using the Guidelines

The Model Guidelines provide guidance to justice sector stakeholders involved in the reporting, investigation, prosecution and adjudication of sexual offences. These stakeholders include judicial officers, prosecutors, police officers, and health and psycho-social care providers from both government and NGOs.

Composition and Role of the Sexual Offences Advisory Committee

The problems faced by the justice system in its management of sexual offences and the treatment of complainants are multi-faceted and therefore require a multi-sectoral solution. It is for this reason the Sexual Offences Advisory Committee was established to provide advice and support to the JURIST Project in the development of the Model Guidelines. The next step is to implement the guidelines through the establishment of a Sexual Offences Model Court in a CARICOM country, which will be selected on the advice of the Project Consultant.

Let me say a few words about the Advisory Committee. The Committee is made up of experts and professionals who have significant experience working with complainants and witnesses at every stage of the justice chain for sexual offences. They represent a broad cross-section of stakeholders

who are interested in improving the management of sexual offences and are committed to ensuring that survivors of sexual violence receive adequate redress and protection within the justice system. These experts include judicial officers from across the region; specialists from UN Women, the Faculty of Law UWI Mona, the CARICOM Secretariat and UNICEF; and a criminal psychologist. As Chair of the Advisory Committee, it was indeed my pleasure to support the development of this groundbreaking document. The Model Guidelines are the first of their kind in the CARICOM region and seek to introduce a comprehensive, collaborative and systematic approach to the investigation, prosecution and adjudication of sexual assault cases.

Expected Outcomes/Improvements

It is hoped that the Model Guidelines will be adopted by all countries in the region and that their implementation will result in:

- Speedy adjudication of cases and reduction of case backlogs over time;
- Improved responses to survivors that will enable their full participation in the justice system, increase offender accountability and reduce secondary victimisation;
- a trained and skilled cadre of cross-sectional professionals including judicial officers, court personnel, police officers and attorneys to respond efficiently to sexual assault cases, survivors and witnesses; and
- Increased public confidence in the justice system as it relates to the handling of sexual assault cases.

We hope that these Guidelines will be in the chambers of every judicial officer, in each DPP's office, in every police station, health care facility, lawyer's office, community service centre, as well as in government department and NGOs that provides psycho-social support to complainants in sexual assault cases in the region. It is our hope that these Guidelines will become the first point of reference in every case.

And now, I hand over to Ms Diana Shaw, Attorney at Law and Consultant on the Model Guidelines Project. Ms Shaw will speak about the process employed in the development of the Guidelines and the next steps proposed to promote the Guidelines throughout the CARICOM region. On behalf of the Advisory Committee, I wish to place on record our sincere gratitude to her for the excellent work done on this Project.